

The Secretary of the Environment proposes to amend Regulation .03-3 under **COMAR 26.08.02 Water Quality**.

Statement of Purpose

The purpose of this action is to revise water quality standards. The Department's review of water quality standards regulations revealed necessary amendments and additions to the regulations.

(1) Establish a 2% restoration variance for the Eastern Bay Mesohaline (EASMH) segment.

(2) Increase the restoration variance for the Lower Chester River Mesohaline (CHSMH) from 14% to 16% non-attainment by volume and duration and move (recodify) this subparagraph to the appropriate paragraph.

A technical support document for this action can be found in the "Special Documents" section of this edition of the Maryland Register.

Background

The Clean Water Act requires that States review their water quality standards at least every 3 years (Triennial Review) and revise the standards as necessary. The water quality standards consist of three parts:

(1) A designated use that set goals for a water body: Examples are support of aquatic life, drinking water supply, or a coldwater fishery such as trout.

(2) Criteria that support the designated uses: There are numerous criteria for chemical substances, bacteria, acidity, and physical characteristics such as temperature. Examples include dissolved oxygen sufficient to support aquatic life or metals in sufficiently low concentrations that they will not interfere with aquatic life.

(3) An antidegradation policy: Maryland has a policy in place, but updates the list of high quality waters as necessary.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action will reduce the need for reductions of nitrogen, phosphorus, and sediment loads to the Chesapeake Bay by 4,000,000 pounds. The cost of those reductions has not been calculated, nor has the allocation of some portion of those pounds to Maryland, but this will result in a significant savings for all of the jurisdictions in the Chesapeake Bay drainage, including Maryland.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	(E-)	Significant
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Various
E. On other industries or trade groups:	(+)	Various
F. Direct and indirect effects on public:	(+)	Various

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

C. —F. The proposed action will reduce the need for reductions of nitrogen, phosphorus, and sediment loads to the Chesapeake Bay by 4,000,000 pounds. Much of these reductions would be required through enhancements of local WWTP, stormwater programs, septic system upgrades, and increased implementation of agricultural best management practices. Reduced reductions implies reduced cost for implementation.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Backus, Chief, Water Quality Standards Section, Maryland Department of the Environment, 1800 Washington Blvd Baltimore, MD 21114, or call 410-537-3965, or email to jbackus@mde.state.md.us, or fax to 410-537-3998. Comments will be accepted through February 13, 2012.

An informational public meeting will be held at MDE Headquarters on January 26, 2012, at 2 p.m.

Montgomery Business Park

1800 Washington Blvd.
Baltimore, MD 21230

Please notify John Backus if you plan to attend.

.03-3 Water Quality Criteria Specific to Designated Uses.

A.—B. (text unchanged)

C. Criteria for Use II Waters—Support of Estuarine and Marine Aquatic Life and Shellfish Harvesting.

(1)—(7) (text unchanged)

(8) Dissolved Oxygen Criteria for Use II Waters.

(a)—(d) (text unchanged)

(e) Seasonal Deep-Water Fish and Shellfish Subcategory. The dissolved oxygen concentrations in areas designated as seasonal deep-water fish and shellfish subcategory shall be:

(i)—(iv) (text unchanged)

(v) For the dissolved oxygen criteria restoration variance for Chesapeake Bay Mainstem Segment 4 mesohaline (CB4MH) seasonal deep-water fish and shellfish subcategory, not lower for dissolved oxygen in segment CB4MH than the stated criteria for the seasonal deep-water seasonal fish and shellfish use for more than 7 percent spatially and temporally (in combination), from June 1 to September 30; *and*

(vi) For dissolved oxygen criteria restoration variance for Patapsco River mesohaline (PATMH) seasonal deep-water fish and shellfish subcategory, not lower for dissolved oxygen in segment PATMH than the stated criteria for the deep-water seasonal fish and shellfish use for more than 7 percent spatially and temporally (in combination), from June 1 to September 30; *and*].

[(vii) For the dissolved oxygen criteria restoration variance for Lower Chester River Mesohaline (CHSMH) seasonal deep-channel refuge subcategory, not lower for dissolved oxygen in segment CHSMH than the stated criteria for the seasonal deep-channel refuge use for more than 14 percent spatially and temporally (in combination), from June 1 to September 30.]

(f) Seasonal Deep-Channel Refuge Subcategory. The dissolved oxygen concentrations in areas designated as deep-channel seasonal refuge use shall be:

(i) Greater than or equal to 1.0 milligrams/liter as an instantaneous minimum from June 1 through September 30 except for Chesapeake Bay segments subject to variances;

(ii) For dissolved oxygen criteria restoration variance for Chesapeake Bay Mainstem Segment 4 mesohaline (CB4MH) deep-channel refuge subcategory, not lower for dissolved oxygen in segment CB4MH than the stated criteria for the seasonal deep-channel refuge for more than 2 percent spatially or temporally (in combination), from June 1 to September 30; *[and]*

[(iii) For the dissolved oxygen criteria restoration variance for Lower Chester River Mesohaline (CHSMH) seasonal deep-channel refuge subcategory, not lower for dissolved oxygen in segment CHSMH than the stated criteria for the seasonal deep-channel refuge use for more than 16 percent spatially and temporally (in combination), from June 1 to September 30;

(iv) For the dissolved oxygen criteria restoration variance for Eastern Bay Mesohaline (EASMH) seasonal deep-channel refuge subcategory, not lower for dissolved oxygen in segment EASMH than the stated criteria for the seasonal deep-channel refuge use for more than 2 percent spatially and temporally (in combination), from June 1 to September 30; and

[(iii)] (v) The same as for the open-water fish and shellfish subcategory from October 1 to May 31.

(g)—(h) (text unchanged)

(9)—(11) (text unchanged)

C-1.—H. (text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment